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TRANSCRIPT OF PROCEEDINGS

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

IN THE MATTER OF: MM DOCKET NO. 92-122

CALVARY EDUCATIONAL BROADCASTING NETWORK, INC.

For Renewal of License of Station KOKS (FM) Poplar Bluff, Missouri

DATE OF HEARING: November 17, 1992 VOLUME: 3

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the matter of:	
CALVARY EDUCATIONAL BROADCASTING NETWORK, INC. For Renewal of License of Station KOKS (FM) Poplar Bluff, Missouri	MM Docket No. 92-122

The above-entitled matter come on for hearing pursuant to Notice before Judge Joseph Stirmer, Administrative Law Judge, at Butler County Courthouse, Poplar Bluff, Missouri, in Courtroom No. 203, on Tuesday, November 17, 1992, at 10:00 a.m.

APPEARANCES:

On behalf of Mass Media Bureau:

James Shook, Esquire
Mass Media Bureau
2025 M Street, N.W.
Washington, D.C. 20554

On behalf of KOKS:

Joseph E. Dunne III
May & Dunne, Chartered
1000 Thomas Jefferson Street, N.W., Suite 520
Washington, D.C. 20007

I N D E X

Witness	Direct	Cross	Redirect	Recross
Charles M. Lampe				
By Mr. Shook		149		
By Mr. Dunne			302	
By Mr. Shook				326
Don Stewart				
By Mr. Shook		333		

E X H I B I T S

Mass Media	Identified	Received	Rejected
29	241		
30	293		

Hearing began: 10:00 a.m. Hearing Ended: 5:20 p.m.
Lunch Break Began: 1:00 p.m. Lunch Break Ended: 1:50 p.m.

P R O C E E D I N G S

JUDGE STIRMER: Good morning. This is the date scheduled for commencement of the field hearing in Docket No. 92-122 involving the application of Calvary Educational Broadcast Network Inc. for renewal of license for station KOKS-FM, Poplar Bluff, Missouri.

A prehearing conference in this proceeding was held on July 16, 1992, and an admissions session where I ruled on the admissibility of the direct cases was held on November 12, 1992.

I would like at this time to obtain the appearances for Calvary Educational Broadcasting Network Inc.

MR. DUNNE: Joseph E. Dunne III with the law firm of May and Dunne, Chartered, for Calvary Educational Broadcasting Network.

JUDGE STIRMER: And for the Mass Media Bureau?

MR. SHOOK: James Shook.

JUDGE STIRMER: Very well. Are there any preliminary matters?

MR. SHOOK: There are, Your Honor. First of all, counsel for Calvary and the Mass Media Bureau have reached a stipulation relative to the situation regarding the tower lights that Your Honor had some questions about during the admissions session, and I would like to submit that stipulation. I can read it into the record if Your Honor wishes.

JUDGE STIRMER: Very well.

MR. SHOOK: "The Mass Media Bureau and Calvary Educational Broadcasting Network Inc. stipulate that the fact that the placement of KOKS's tower lights differs from the description in KOKS's construction permit does not constitute a violation of the Commission's rules and does not evidence ineptness in the operation of KOKS-FM.

JUDGE STIRMER: Very well. That stipulation is accepted. Are there any other preliminary matters?

MR. SHOOK: There are, Your Honor.

JUDGE STIRMER: Very well.

MR. DUNNE: Two minor matters, Your Honor. One is that at the admissions session, it was pointed out that the attachment to Mr. Lampe's testimony, that one of the paragraphs was essentially blotted out and blurred, and I promised to submit a clearer copy of the document.

JUDGE STIRMER: That was Attachment B?

MR. DUNNE: That was Attachment B, Your Honor.

JUDGE STIRMER: Very well.

MR. DUNNE: The first, discovered that it is essentially unnecessary to submit the document, Your Honor, because the exact same page in the submission is Mass Media Bureau Exhibit No. 29. I think the Bureau would enter in a stipulation that the documents are the same, and therefore we don't need to clutter the record with paperwork.

JUDGE STIRMER: Very well. Is that correct, Mr. Shook?

MR. SHOOK: Your Honor, only for clarification. I believe it is the third page of that exhibit, or whatever page it is.

MR. DUNNE: It is page 6.

MR. SHOOK: It is page 6, Your Honor.

JUDGE STIRMER: Very well.

MR. DUNNE: And last but not least, Your Honor, Mass Media Bureau and I, at a short discussion before the hearing, believe that the witness exclusion rule should be appropriate in this case, and I would move that you invoke that rule.

JUDGE STIRMER: Very well.

MR. SHOOK: Your Honor, in that case, I know there is at least one witness in here, and she will now be leaving the courtroom.

JUDGE STIRMER: Now that pertains to you also, Mr. Dunne.

MR. DUNNE: I understand that, Your Honor. We will have one representative of the applicant, which will be Ms. Stewart, and Mr. Stewart will leave the courtroom.

JUDGE STIRMER: Very well. Off the record.

(Off the record.)

(Back on the record.)

MR. SHOOK: Your Honor, before we start, I do have one final preliminary matter, and that is to just clarify for the

record Your Honor's ruling relative to KOKS Exhibits 5 and 6.

JUDGE STIRMER: Yes. As you all recall, I reserved ruling on those exhibits during the admissions session and I later -- the next day, as a matter of fact -- called you, Mr. Shook, and your office, Mr. Dunne. You were not available. And I left word that I was going to rule favorably on the admissibility of those two exhibits as indicating the two Commission reports with respect to the matters at issue in this proceeding.

MR. SHOOK: Your Honor, am I to understand from that that the material would then be available for all uses with respect to all statements made therein?

JUDGE STIRMER: You can argue the probative nature of any of the material in there as being reports made by the Commission engineers or Commission personnel at the time that those investigations were conducted.

MR. SHOOK: Your Honor, the Bureau feels constrained with respect to Exhibit No. 5, Calvary Exhibit No. 5. It would be second page of the body of the report, so if we were numbering Exhibit 5 from the cover page, it would be page 3. The Bureau feels constrained to move to strike the paragraph that begins with, "Measurements made during May 3, 1989," through the sentence, "Only local stations are protected." Your Honor, the reason that the Bureau moves to strike these, it would either be two paragraphs -- I guess it would be two

paragraphs -- is that there is no indication of where these measurements take place. And if you compare these measurements with the measurements made by Mr. Ramage that appear in Mass Media Bureau Exhibit 1, on page 16, you will note that there is a substantial disparity between the measurements made by Mr. Ramage and the measurements made by Mr. Poole.

JUDGE STIRMER: What page is that on Exhibit 1?

MR. SHOOK: That would be page 16, Your Honor.

JUDGE STIRMER: Well, Mr. Shook, that only indicates that there is conflicting evidence in the record. You will have Mr. Ramage here. He will testify as to his measurements. Mr. Poole's report will go into evidence, and then you can argue the probative value of the testimony of each.

MR. SHOOK: Yes. I am merely pointing out to Your Honor that in that paragraph that begins with, "Measurements made," it notes that it was done at five widely spaced locations around Poplar Bluff. And that is where I have my problem, because --

JUDGE STIRMER: Well, you can argue that, based on that recitation, that that is not probative evidence of anything.

MR. SHOOK: Thank you, Your Honor.

MR. DUNNE: Thank you, Your Honor. I think we are ready to proceed, Your Honor.

JUDGE STIRMER: All right. Your witness is here?

MR. DUNNE: Yes, he is, Your Honor.

JUDGE STIRMER: And who is that?

MR. DUNNE: Charles M. Lampe.

JUDGE STIRMER: Mr. Lampe, would you please come forward and be sworn?

MR. DUNNE: Excuse me, Your Honor.

JUDGE STIRMER: Yes.

MR. DUNNE: Mr. Lampe, do you have a copy of your testimony?

THE WITNESS: No, sir.

MR. DUNNE: I'm sorry, Your Honor.

JUDGE STIRMER: Very well. Would you raise your right hand? Would you have a seat, please, sir? Mr. Lampe's written testimony was previously received in evidence. Is that correct?

MR. DUNNE: Yes, sir.

JUDGE STIRMER: And he is now available for cross-examination?

MR. DUNNE: Yes, sir, he is.

JUDGE STIRMER: All right. Mr. Shook, cross-examination?

MR. SHOOK: Thank you, Your Honor.

JUDGE STIRMER: Wait just one moment. Off the record a moment.

(Off the record.)

(Back on the record.)

JUDGE STIRMER: On the record. Mr. Shook, would you proceed, please?

MR. SHOOK: Thank you, Your Honor.

Whereupon,

CHARLES M. LAMPE

having been first duly sworn, was called as a witness herein and was examined and testified as follows:

CROSS-EXAMINATION

BY MR. SHOOK:

Q Mr. Lampe, my name is James Shook, and I am counsel for the Mass Media Bureau, which is an arm of the Federal Communications Commission. When I am asking you questions, if there is a questions, if there is a question that you do not understand, you know, please so indicate. If you have trouble hearing me, you know, so indicate and I will try to raise my voice. Mr. Lampe, what course of study did you pursue at Three Rivers Community College?

A Associate of Arts. It was a pre-engineering toward electrical engineering.

Q What particular courses did you actually take?

A Just your basic required courses. English, chemistry, calculus, descriptive geometry, engineering drawing, Western civilization, psychology.

Q Was this program looking toward a degree?

A It was looking toward a degree, yes. It was

pre-required studies in order to allow me to move on to a four-year college to get my engineering degree.

Q Was there a degree conferred upon you by Three Rivers Community College?

A Associate of Arts.

Q And that was a for a two-year course of study?

A Two-year.

Q Now did you study electronics at Three Rivers Community College?

A A continuing ed course.

Q And could you tell us what was involved in that?

A Basically training in FCC rules and regs toward a first-class FCC license.

Q Now how much of this training involved broadcast equipment?

A As far as hands-on training, sir?

Q Yes, sir.

A Mostly theory.

Q Okay. And could you go into some detail about what theory it was that you were studying?

A It was antenna theory, radiation theory, calculations as far as power output, the way studios should be set up and arranged.

Q In terms of power output, are you referring to, you know, what actually comes out from the antenna?

A Both. Both ways of determining power output.
Q Okay. And what is the other way?
A You have got effective radiated, and you have got transmitter power output.
Q And the effective radiated power is what comes out of the antenna? Correct?
A With some calculations, yes.
Q Okay. And what are those calculations?
A The gain of the antenna and how much power is going into that antenna.
Q Okay. Is this, what, a simple multiplying process, or is there something else involved?
A Yes, it is. Simple math.
Q Okay. And could you give me an example?
A Of effective radiated, how to find effective radiated power?
Q Yes, sir.
A Effective radiated power is composed of the gain of the antenna, times the power output at the antenna.
Q Okay. So, in other words, if the transmitter output power was 25,000 watts and the antenna gain was a factor of 4, that would produce an effective radiated power of 100,000 watts? Correct?
A No, sir.
Q Okay. What am I missing?

A You are missing the loss in the feed line of the antenna.

Q And what does that entail?

A You have to take into account the size of your feed line and the length of the feed line, and you go back to the manufacturer and they will tell you how much loss is in that feed line.

Q Okay. So then there is another number to factor in?

A Right.

Q So it would be transmitter output power, times antenna gain, times this --

A Minus the loss of the feed line.

Q Okay. Now would this course of study also encompass electrical engineering? Or was, I mean, what you were describing to me, essentially the electrical engineering that you have?

A You mean -- I don't quite understand.

Q That's fine. Now I had asked you before about whether you had studied electronics, and then we went off on a number of questions that dealt with what you studied. Would you distinguish between the electronics and electrical engineering?

A I would have to say that they are basically -- you are saying electrical engineering electronics?

Q Yes, sir, right.

A That's a hard question to ask. There are some similarities and some differences.

Q Okay. Well, could you briefly give me some idea of, you know, what the similarities and differences are?

MR. DUNNE: Your Honor, I am going to object at this point. This man doesn't claim to be an electrical engineer.

JUDGE STIRMER: Where are we going, Mr. Shook?

MR. SHOOK: Your Honor, a number of objections were raised at the admissions session about the competence of the witness, and what I am doing is, you know, determining the witness's competence.

MR. DUNNE: Your Honor, if the questions go the witness's competency, he can ask specifically what he based on his opinions on and what training he has.

JUDGE STIRMER: Well, I will give you a little more leeway, Mr. Shook.

MR. SHOOK: Sure, and I am almost finished with this line.

JUDGE STIRMER: All right, proceed.

BY MR. SHOOK:

Q Do you remember the question?

A No, sir.

Q Okay. Well, we will move on anyway. Did you take any courses in television repair?

A Yes.

Q And what courses were they?

A During high school we had an electrical course through the trade school program that involved everything from house wiring through basic electronic circuits. It so happened that the teacher of that course was an old television repairman. That is what he did before he began teaching. And during our senior year, this course was three hours a day. I had it in my junior and senior year. It was a stet course. And during our senior year they brought, they went to television repair shops around and brought in old junk televisions and allowed us hands-on.

Q Okay. And when were these courses taken?

A In 19 -- I graduated in '70, so it would have had to have been '68, '69 and '70.

Q Did you ever take any courses in radio repair?

A It covered the same thing. It was, you took that before you got into television repair.

Q Did any of these courses discuss or deal with the phenomenon known as blanketing interference?

A There was mentions of it as far as interference.

Q Do you recall what mentions there were?

A That has been a long time ago. I don't recall specifics on that.

Q Okay. Now what your duties at A-1 Electronics?

A Technician.

Q And what did that entail?
A Making home service calls, doing antenna and tower work, repairing televisions, radios, recording equipment. Basically that is about it.
Q Did you ever deal with blanketing interference while working at A-1?
A I don't recall.
Q What were your duties at Montgomery Ward?
A Assistant service manager.
Q Did you ever deal with blanketing interference while working at Montgomery Ward?
A I don't recall.
Q Now in your testimony in paragraph 2, you indicate that you have worked as a contract engineer for KJEZ-FM in Poplar Bluff for over 10 years. Has the technical advice proffer that you have proffered to KJEZ-FM ever dealt with resolving complaints of blanketing interference?
A Would you define what you are considering blanketing interference? Are you saying just interference or blanketing interference?
Q Well, have any complaints ever been leveled against KJEZ-FM that you know of that KJEZ-FM was causing blanketing interference? And, if so, what, if anything, did you have to do in regard to that?
A I recall one complaint in which I was asked to go out

and deal with the problem, and it amounted to more than an antenna problem than an interference problem. It was caused by a lead wire that was very old and cracked and not properly attached to the antenna.

Q Do you recall whose house this was that you went to?

A No, sir, I don't recall the name.

Q Okay. Do you recall approximately how far away this house was from the station?

A The closest I can place it is within a mile of the tower.

Q And do you recall what the facilities of the station were at that time? And by facilities I mean the tower height and effective radiated power.

A It is the same as it is today.

Q And that is?

A It's 430 feet, 100,000 watts ARP.

Q Okay. And you had one complaint?

A Yes, sir.

Q And when you got there, that complaint really didn't have anything to do with blanketing so far as you could tell?

A No, sir.

Q What is the nature --

JUDGE STIRMER: So it did not have anything to do with blanketing?

THE WITNESS: Yes, sir. It was faulty antenna equip-

ment.

JUDGE STIRMER: All right.

BY MR. SHOOK:

Q What is the nature of the engineering work that you do for Hunt Broadcasting?

A They call me whenever they have a problem, basically.

Q Has your engineering work for Hunt ever involved dealing with complaints of blanketing interference?

A No, sir.

Q Prior to the commencement of KOKS's broadcast operations, how many homes in the Poplar Bluff region, which for purposes of discussion here I shall define as Butler County, had you been in for the purpose of improving television reception?

A That's a hard question to answer.

Q Well, you can give me an approximate number. It doesn't have to be exact.

A Would you restate the question again?

Q Okay. Before KOKS came on the air, so we are talking about before October 1988, how many homes in this county, Butler County, have you been in to improve the residents' television reception?

A That covers almost a 20-year period. That is an awfully hard number to come up with. I would have to say hundreds of homes.

Q All right. Now have these homes been located all over the county, or have your service calls been, you know, confined to particular areas within the county?

A They have been all over the county and outside the county.

Q Okay. And where outside the county have you gone?

A I have gone to Ripley County, Carter County, Dunklin County.

Q Okay. I may not know the geography. Could you give me some idea where these places are?

A You basically would say about a 40-mile radius of Poplar Bluff.

Q Okay. So, in other words, the surrounding counties?

A Right.

Q Butler, plus the surrounding counties?

A Uh-huh.

Q Now you mention in your testimony, and I will point to you what I am looking at here. Okay. On the top of the page 2, the first sentence, the first full sentence, which is the last sentence of paragraph 3, reads: "Because of the difficult conditions for TV reception in the area." Now did these difficult conditions for TV reception in the area vary according to where in the area a residence was located?

A Yes.

Q Okay. And could you give me some idea of which

problems you might find where?

A Poor reception problems occur when, according to the height of the people as far as their residences, where they are location; whether or not they are shielded by a hillside between the station and their house that they are trying to receive. Basically that is what comes into play, and the distance of the station from the home.

JUDGE STIRMER: This relates both to broadcast transmissions and television signals?

THE WITNESS: Yes.

BY MR. SHOOK:

Q Okay. Let me see if I can get a little more specificity from this. Let us say that a resident was located in the far northeast corner of Butler County and then a second resident located in the far southwest corner of Butler County. Now, first of all, about how many miles apart are those residences?

A I would have to guess, because I don't know exactly.

JUDGE STIRMER: Well, what is your best estimate?

THE WITNESS: My best estimate, cross-section, 20 to 30 miles.

BY MR. SHOOK:

Q Okay. Now the person in the far northeast part of Butler County, what stations is a resident there apt to receive?

A Depending on antenna equipment?
Q Let's say he has got a regular rooftop antenna and he is not located in a valley.
A Okay. A fixed antenna?
Q A fixed antenna. Right, one without a rotor.
A Okay. And are you saying -- what are you defining as reception?
Q Okay. A watchable picture.
A Just something that you can see?
Q You can see it. You can make out the characters. You can understand the dialogue.
A Ghost-free or with ghosts?
Q Ghost-free.
A Ghost-free? The far northeast corner of the county on a hill, ghost-free. Without any kind of booster, just an antenna?
Q Just an antenna.
A You would see Channel 12, Paducah, Kentucky -- I mean, Cape Girardeau -- Channel 6, Paducah; possibly Channel 3, Harrisburg; possibly Channel 3, Cape Girardeau.
Q Okay.
A That's ghost-free, because they are basically that direction.
Q All right. Okay, and one further thing. Let us say that the antenna is poised to pick up signals from the north-

east.

A That's right.

Q I take it that was part of -- was that part of it?

A That's part of it. It is poised toward the Cape direction or the middle east to the northeast.

Q Okay. Now am I to understand then that a resident located in that area would have difficulty picking up Channel 8 from Jonesboro and Channel 15 from Poplar Bluff?

A Yes. With the directional antenna, they would.

Q Now if the resident were located in the far southwest corner of Butler County, on a hill, rooftop antenna. Again, the antenna orientation is fixed and is pointed toward the northeast.

A That would be almost to the Ripley County line. There again, Channel 12, Cape Girardeau. Twenty-three is very iffy. Channel 6 is very iffy. Channel 3 is very iffy.

Q Okay. How about picking up Channels 8 and 15 at this point?

A Channel 8 would be ghosting and 15 would be ghosting.

Q Okay. Now if you are in the far southwest corner of Butler County and you have your antenna oriented toward the northeast, wouldn't that essentially be pointed in the direction of the Channel 15 transmitter?

A You are southwest and northeast. No, sir, it would be ghosting. It would be ghosting. It has been my past exper-

ience that you do get a ghost off the side of that antenna at that point.

Q Okay. Where would one's residence have to be in the antenna fix in order to get a ghost-free picture relative to Channel 15?

A In Poplar Bluff?

Q Yes, sir.

A And have it oriented for 12?

Q Well, let's say it is oriented to pick up Channel 12 in addition to whatever other channels it might be able to pick up.

A Without turning the antenna off of Channel 12 and putting it directly toward the Channel 15 tower, since 15 is UHF, it is going to be awfully difficult to get it ghost-free.

Q Okay. Am I to understand then that the only way to get a ghost-free picture of Channel 15 is to have your antenna oriented directly toward the Channel 15 transmitter?

A If you are using a directional antenna.

Q Okay. What other kinds of antennas are there?

A All antennas are directional to some extent. The more elements on the antenna, the more directional they are, the more problems you have with ghosting.

Q Okay. And can you explain for us, you know, what ghosting is and what causes it?

A It is a time delay between when different signals of

the same station hit the antenna.

Q Okay. So ghosting has nothing to do with something being in the way of the transmitter?

A It could.

Q Okay. And if it could, how could it?

A Signals bounce around like water off a garbage can, and they hit something else and then come back to a receiving antenna.

Q Is ghosting a more likely phenomenon relative to Channel 15 than it is to, you know, Channel 6, 8 or 12?

A In this area, it is.

Q And can you explain why that is the case?

A UHF is line of sight, more or less. In other words, the frequency at UHF is basically a line-of-sight station. VHF tends to bend a little with the contour of the earth. Therefore, it doesn't ricochet like a UHF signal does. Therefore, it is going to ghost.

Q Do you know what TASO readings are?

A No, sir.

Q Okay. So if I were to use the term "TASO reading," you would have no idea what I was talking about?

A No, sir.

Q Before KOKS began broadcasting, could most residents who lived within a three-mile radius of the KOKS tower receive a watchable picture on Channel 6, Paducah?

A Are you saying most residents in that area?
Q Yes, sir, within a three-mile radius of the KOKS tower.
A I truthfully don't know.
Q Okay. You have been to some of those homes, though? Correct?
A Yes, I have.
Q Before KOKS began broadcasting?
A Yes, I have.
Q Now do you know far the Channel 6, Mountain Home, Arkansas, transmitter is from KOKS's tower?
A No, sir, I do not.
Q Do you know how far away from the KOKS tower the Channel 6, Paducah, transmitter is?
A Not, not line of sight, no.
Q How far away do you understand from the KOKS tower is the closest point of the Grade B contour for Channel 6, Paducah?
A My understanding was 51 --
Q Okay. And approximately how many miles would that be from the KOKS tower?
A Line of sight?
Q Yes, sir.
A Line of sight?
Q Yes, sir.
A Approximately 18 miles, I would say.